UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/756,120	01/09/2001	Tetsuro Motoyama	198775US-2	5602

22850   7590   12/26/2008
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
CHOUDHURY, AZIZUL Q

ART UNIT	PAPER NUMBER
2445	

NOTIFICATION DATE	DELIVERY MODE
12/26/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _18 September 2008_.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1,3,4,6-12,14-16,18,19,21-25,27,28,30 and 32-35_ is/are pending in the application.
      4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) _1,3,4,6-12,14-16,18,19,21-25,27,28,30 and 32-35_ is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.
10)☒ The drawing(s) filed on _09 January 2001_ is/are: a)☒ accepted or b)☐ objected to by the Examiner.
      Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
      Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
      a)☐ All   b)☐ Some * c)☐ None of:
         1.☐ Certified copies of the priority documents have been received.
         2.☐ Certified copies of the priority documents have been received in Application No. _____.
         3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
      * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
      Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
      Paper No(s)/Mail Date. _____ .
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

Detailed Action

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set

forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this

application is eligible for continued examination under 37 CFR 1.114, and the fee set

forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action

has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on

September 18, 2008 has been entered.

Specification

The specification is objected to as failing to provide proper antecedent basis for

the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction

of the following is required: Please amend the claims to cancel "predetermined" within

the phrase "predetermined status information" within claims 1, 16, 25, 34.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of
> matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the
> conditions and requirements of this title.

Claims 25, 27-28, 30, and 32-33 are rejected under 35 U.S.C. 101 because the claimed

invention is directed to non-statutory subject matter. Claims 25-28, 30, and 32-33 fail to

fall within a statutory category of invention. They are directed to the program itself, not

a process occurring as a result of executing the program, a machine programmed to

operate in accordance with the program nor a manufacture structurally and functionally

interconnected with the program in a manner which enables the program to act as a

computer component and realize its functionality. They're also clearly not directed to a

composition of matter. In particular, despite the claim amendments (wherein it is now

claimed that the computer readable medium is a non-transmission computer readable

storage medium), the specifications support the computer readable medium being any

transmission media, amongst other media. Therefore the claims continue to remain

non-statutory under 35 USC 101.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1, 16, 25 and 34 are rejected under 35 U.S.C. 112, first paragraph, as

failing to comply with the enablement requirement. The claim(s) contains subject matter

which was not described in the specification in such a way as to enable one skilled in

the art to which it pertains, or with which it is most nearly connected, to make and/or use

the invention. The newly amended claims cite the phrase, "predetermined status."

While the claims support the use of "status" there is no support to be found for

"predetermined status".

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly
claiming the subject matter which the applicant regards as his invention.

Claim 1 recites the limitation "the status information" in line 5 and the remainder

of the claim. There is insufficient antecedent basis for this limitation in the claim.

Claim 16 recites the limitation "the status information" in lines 4-5 and the

remainder of the claim. There is insufficient antecedent basis for this limitation in the

claim.

Claim 25 recites the limitation "the status information" in line 7 and the remainder

of the claim. There is insufficient antecedent basis for this limitation in the claim.

Claim 34 recites the limitation "the status information" in line 4 and the remainder

of the claim. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set
forth in section 102 of this title, if the differences between the subject matter sought to be patented and
the prior art are such that the subject matter as a whole would have been obvious at the time the
invention was made to a person having ordinary skill in the art to which said subject matter pertains.
Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 3-4, 6-12, 14-16, 18-19, 21-25, 27-28, 30 and 32-35 are rejected under

35 U.S.C. 103(a) as being unpatentable over Fletcher et al (US Patent No: 6,108,782)

in view of Brunet et al (US Patent No: 6,430,613), hereafter referred to as Fletcher and

Brunet, respectively.

1.   With regards to claims 1, 16, 25 and 34, Fletcher teaches through Brunet a

computer-implemented remote device monitoring system, comprising: a local

monitoring computer (*equivalent to the dRMON agents (hardware component with*

dRMON agents); column 6, lines 12-15, Fletcher) configured to collect predetermined

status information from a monitored device (*equivalent to ESs*) connected to a first

network using an SNMP protocol (*column 9, lines 38-40, Fletcher*), and to send the

status information to a remote monitoring computer (*equivalent to dRMON collector; see*

column 9, line 33-34, Fletcher) connected to a second network via a wide area network

using a protocol, the status information being obtained from sensors in the monitored

device (*It is implicit that sensors exist within a device when it's status is being obtained;*

see Figure 1 and column 6, lines 25-32, Fletcher); and the remote monitoring computer

configured to receive the status information using the protocol and store the status

information in association with an IP address of the monitored device in a digital

repository connected to the second network (*column 14, lines 41-42 and claim 12,*

Fletcher), wherein the local monitoring computer is configured to automatically request

the status information from the monitored device over the first network at regular,

predetermined intervals, without receiving any instructions from the remote monitoring

computer requesting that the predetermined status information be collected from the

monitored device (*column 6, lines 25-28 and column 9, lines 65-66, Fletcher*); and

wherein after initialization of the local monitoring computer, the local monitoring

computer is configured to automatically send the collected status information to the

remote monitoring computer, without receiving any instructions from the remote

monitoring computer requesting that the collected status information be sent (*column 6, lines 25-28 and column 9, lines 65-66, Fletcher*).

While Fletcher teaches the monitoring of devices, Fletcher fails to teach the device information being sent to the local monitoring computer via SNMP. Fletcher is also silent about automatically requesting status information at regular, predetermined intervals. In the same field of endeavor, Brunet also teaches a network monitoring system. Within Brunet's design, ETs (equivalent to the claimed devices) (see Figure 1, Brunet) are monitored via SNMP by submanagers through a LAN (equivalent to claimed local monitoring device) (see column 6, lines 1-8 and Figure 1, elements titled COACH1 and COACH2, Brunet). The management information about the ETs (clients) is sent from the submanagers to the main manager through a WAN (see column 4, lines 1-13, Brunet). Furthermore, Brunet teaches how submanagers can automatically communicate with main managers (see column 6, lines 21-47 and column 7, lines 29-33, Brunet). In addition, Brunet teaches how alarms (equivalent to status information) are sent automatically within the subnetwork (equivalent to the claimed local monitoring) within a polling period (implicit that polling period is regular, equivalent to the claimed regular, predetermined interval) (see column 4, lines 14-32, Brunet). The automatic receipt of status information allows network management systems to ensure that update data is always received. Therefore it would have been obvious to one skilled in the art, during the time of the invention, to have combined the teachings of Fletcher with those of Brunet, to provide a process and system for ensuring updated network management (see column 1, lines 5-6, Brunet).

2.   With regards to claims 3, 18 and 27, Fletcher teaches through Brunet a system

wherein the monitored device comprises a printer (*column 1, line 66 – column 2, line 3,*

Fletcher).

3.   With regards to claim 4, Fletcher teaches through Brunet a system wherein the

status information comprises at least one of a low paper indicator, a no paper indicator,

a low toner indicator, a no toner indicator, door open indicator, a jammed indicator, an

offline indicator, and a service requested indicator (*column 1, line 66 – column 2, line 3*

and column 7, lines 45-55, Fletcher).

4.   With regards to claims 6, 19 and 28, Fletcher teaches through Brunet a system

wherein at least a portion of the wide area network comprises the Internet (*column 18,*

lines 13-14, Fletcher).

5.   With regards to claims 7, 21, 30 and 35, Fletcher teaches through Brunet a

system wherein the protocol comprises at least one of a simple mail transfer protocol

and an Internet mail access protocol (*column 10, line 46 – column 11, line 33, Fletcher*).

6.   With regards to claim 8, Fletcher teaches through Brunet a system wherein at

least a portion of at least one of the first network and the second network comprises an

intranet (*column 1, line 54 – column 2, line 10, Fletcher*).

7.   With regards to claims 9 and 22, Fletcher teaches through Brunet a system

wherein the digital repository comprises a database (*column 18, line 48, Fletcher*).

8.   With regards to claims 10, 23 and 32, Fletcher teaches through Brunet a system

wherein the local monitoring computer is further configured to store the collected status

information in a first digital repository connected to the first network, and to retrieve the

status information from the first digital repository (*column 20, lines 32-38, Fletcher*).

9.   With regards to claims 11, 24 and 33, Fletcher teaches through Brunet a system

wherein the digital repository comprises a database (*column 18, line 48, Fletcher*).

10.   With regards to claim 12, Fletcher teaches through Brunet a system wherein the

local monitoring computer comprises a computer readable medium encoded with

processor readable instructions comprises at least one of a dynamic link library, a static

link library, a script, a JAVA class, a C++ class, and a C library routine (*column 7, lines

51-53, Fletcher*).

11.   With regards to claim 14, Fletcher teaches through Brunet a system wherein the

remote monitoring computer is further configured to store the status information in the

digital repository through an open database connectivity interface (*column 20, lines 32-

38, Fletcher*).

12.   With regards to claim 15, Fletcher teaches through Brunet a system wherein the

local monitoring computer is further configured to store the information in the first digital

repository through an open database connectivity interface (*column 20, lines 32-38,*

Fletcher).

13.   The obviousness motivation applied to claims 1, 16, 25 and 34 are applicable to

their respective dependent claims.

Response to Arguments

Applicant's arguments filed September 18, 2008 have been fully considered but

they are not deemed fully persuasive. The following are the examiner's response to the

applicant's arguments.

The first point of contention addressed by the applicant concerns the 101

rejection. The applicant has amended the claims in an effort to overcome the 101

rejection. However, the claim amendments were not sufficient to fully overcome the 101

rejection. In particular, despite the claim amendments (wherein it is now claimed that

the computer readable medium is a non-transmission computer readable storage

medium), the specifications continue to define the computer readable medium as being

any transmission media, and that is deemed non-statutory. Therefore, the claims 25,

27-28, 30, and 32-33 are still deemed non-statutory under 35 USC 101.

The second point of contention involves the previously issued 112 1st paragraph rejection over new matter. The rejection was issued over the claimed term "sensor" which was not present within the original specifications. However applicant did incorporate by reference numerous other applications, one of which did support the use of sensors, and applicant has since amended the specifications to support the claimed term "sensor." Since the matter was present within the incorporated reference and the amended specifications does support the use of the term sensor, the 112 1st paragraph rejection is now withdrawn.

The third point of contention involves the newly claimed limitation of a "local monitoring computer that is configured to automatically request predetermined status information from the monitored device connected to a first network using an SNMP protocol. The applicant contends that the Brunet art fails to teach such a claim limitation, the examiner respectfully disagrees. Brunet teaches ETs (equivalent to the claimed devices) (see Figure 1, Brunet) are monitored via SNMP by submanagers through a LAN (equivalent to claimed local monitoring device) (see column 6, lines 1-8 and Figure 1, elements titled COACH1 and COACH2, Brunet). So the submanagers are being equated to the claimed local monitoring computer, not the agents as alleged by the applicant. Brunet then teaches how the management information about the ETs (clients) is sent from the submanagers to the main manager through a WAN (see column 4, lines 1-13, Brunet). Furthermore, Brunet teaches how submanagers can automatically communicate with main managers (see column 6, lines 21-47 and column 7, lines 29-33, Brunet).

In addition, Brunet teaches how alarms (equivalent to status information) are sent automatically within the subnetwork (equivalent to the claimed local monitoring) within a polling period (equivalent to the claimed predetermined period) (see column 4, lines 14-32, Brunet). The applicant contends that the Brunet's alarms are not equivalent to the newly claimed predetermined status information (because applicant contends that an alarm is unknown until it occurs). The examiner respectfully disagrees. While there is support for status information within the specification, there is no support for "predetermined status information" as currently claimed. Hence a 112 1st paragraph rejection has been issued. Furthermore the alarm of Brunet's design is used to alert the manager of any events, just like status information is described to do within the applicant's own specifications. Hence the two are deemed equivalent.

The applicant then contends that neither prior art teach the newly claimed "regular, predetermined intervals." The examiner respectfully disagrees. Brunet teaches how alarms (equivalent to status information) are sent automatically within the subnetwork (equivalent to the claimed local monitoring) within a polling period (equivalent to the claimed predetermined period) (see column 4, lines 14-32, Brunet). Applicant then further contends that a polling period is not equivalent to the claimed regular, predetermined interval. The examiner disagrees because polling is a repeated event (see Wikipedia) and a period is defined as "an interval of time characterized by the occurrence of a certain condition, event, or phenomenon" (*as cited within The American Heritage College Dictionary, 4th edition*). Furthermore it is implicit that a polling period (*i.e.* a repeated interval) is regular since polling in computing occurs in

pre-established time intervals (*i.e. every 5 seconds or such*). Thus a polling period is a

repeated interval that occurs regularly and is deemed equivalent to the claimed regular,

predetermined interval.

The final point of contention addressed by the applicant concerns the Fletcher

prior art. Applicant contends that since Fletcher states the "RMON provides

autonomous network management/monitoring, unlike SNMP which requires periodic

polling of ESs", it teaches away from the claimed invention. The examiner strongly

disagrees. The citation referred by the applicant refers to RMON's benefits over

traditional SNMP systems. Fletcher's design allows for the clear use of SNMP as

evidenced by at least the abstract wherein it is stated:

> user's interaction with the distributed system. The invention
> is designed to work in accordance with a variety of standard
> network management protocols including SNMP, RMON,
> and RMON2 but is not limited to those environments. The

Therefore the examiner disagrees with the applicant's assertions and maintains that the

combination of Fletcher with Brunet is valid.

Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to AZIZUL CHOUDHURY whose telephone number is

(571)272-3909. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Glenton B. Burgess can be reached on (571) 272-3949. The fax phone

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Azizul Choudhury/
Examiner, Art Unit 2445